

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SMILES SERVICES LLC et al.,

Plaintiff,

v.

RAYMOND L. FRYE et al.,

Defendant.

CASE NO. 3:23-cv-05392-DGE

MINUTE ORDER

The following Minute Order is made by direction of the Court, United States District Judge David G. Estudillo:

On June 16, 2023, all Defendants filed a Motion for Partial Dismissal Pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 32.) The Motion for Partial Dismissal seeks to dismiss Count 1 and Count 4 of the First Amended Complaint filed on May 25, 2023. (*Id.*) As to the remaining claims against Defendant Raymond L. Frye, in his individual capacity, Defendants asks the Court to order Plaintiffs to file a second amended complaint further explaining the basis for those claims. (*Id.* at 16.)

1 On June 28, 2023, Plaintiffs filed a Motion to Compel Arbitration and to Stay Claims  
2 Against Frye Pending Completion of Arbitration. (Dkt. No. 33.) The Motion to Compel  
3 identified that Frye, in his individual capacity, filed related claims against Plaintiff Smiles  
4 Services LLC and another entity identified as Smiles Services Holding, Inc. in state court under  
5 King County cause number 23-2-09045-4SEA. (*See* Dkt. No. 33-3; Dkt. No. 33-4 at 1.)

6 On July 10, 2023, Plaintiffs filed a Motion to Stay Briefing and Adjudication of  
7 Defendants' Partial Motion to Dismiss. (Dkt. No. 35.) In support of the Motion to Stay  
8 Briefing, Plaintiffs filed a copy of an order entered in the state court action ordering Frye to  
9 submit his related state court claims to mandatory binding arbitration. (Dkt. No. 35-1.)

10 Frye does not oppose Plaintiffs' Motion to Compel or Motion to Stay Briefing. (*See* Dkt.  
11 Nos. 37 and 38.)

12 Plaintiffs' claims against Frye appear intertwined with the claims against the remaining  
13 Defendants, and in particular those claims against Dentist-Owned, LLC and Raymond L. Frye  
14 DMD, P.L.L.C.—entities in which it appears Frye is a principal owner. As such, the Court  
15 questions whether the claims against the remaining Defendants can (or should) proceed while the  
16 claims involving Frye are stayed pending arbitration.

17 Accordingly, the parties are ORDERED to show cause why the claims against the  
18 remaining Defendants should proceed while the claims involving Frye are stayed.

19 The parties SHALL file their briefing on this issue no later than August 4, 2023.

20  
21 The foregoing Minute Order authorized by THE HONORABLE DAVID G. ESTUDILLO,  
22 UNITED STATES DISTRICT JUDGE.

23 Dated this 28th day of July, 2023.